

# MAGISTRATE COURT OF \_\_\_\_\_ COUNTY, GEORGIA

Date Filed \_\_\_\_\_

Case No: \_\_\_\_\_

Plaintiff(s) Name, Address

vs.

Defendant(s) Name, Address

## AFFIDAVIT FOR FORECLOSURE OF PERSONAL PROPERTY

Personally appeared \_\_\_\_\_ who, on oath, says that he/she is [ ] Plaintiff(s) [ ] Agent ; [ ] Attorney-at-Law; for Plaintiff(s); and is authorized to make this Affidavit, and that Defendant(s) herein, whose address is set forth above herein is indebted to said Plaintiff(s) in the amount(s) of: (fill in amounts as applicable) Principal (\$\_\_\_\_\_);

(\$\_\_\_\_\_ ) interest thereon, upon a [ ] Security Agreement ; [ ] Contract Retaining Title; in and who, on oath, says that the original thereof, or a true copy of same, is attached hereto and made a part hereof, and that said indebtedness is past due, and that the Defendant(s) is/are either now a resident of \_\_\_\_\_ County, Georgia, or was a resident thereof at the date said writing was executed, and that this affidavit is made for the purpose of foreclosing indebtedness together with interest thereon and all costs of these proceedings.

[ ] Check if Applicable (Affiant alleges that the security interest at issue arose out of a "commercial claim" as defined by Code Section 44-14-237, as amended, and that the Defendant(s) has waived same or all of the rights and provisions contained in Code Section 44-14-230, a copy of such waiver shall be attached hereto and such attachment shall be construed as an allegation, under oath, of such waiver.)

Sworn and subscribed before me this

Plaintiff(s) or - Agent - Attorney

day of \_\_\_\_\_, 20\_\_\_\_\_

(If Agent /Attorney – Title or Capacity)

Notary Public/Attesting Official/Clerk

Daytime Phone Number

My Commission Expires: \_\_\_\_\_

Bar Number (if applicable)

### NOTICE AND SUMMONS

TO: Defendant(s)

You are hereby commanded and required personally or by attorney to file with the Clerk of the Magistrate Court, **within (7) days from the date of service of the within affidavit and summons, or on the first business day thereafter if the seventh day falls on a Saturday, a Sunday, or a legal holiday, then and there to answer said affidavit in writing or orally.** (See mailing address above, or file in person at the Magistrate Office.) If the Defendant(s) fails to answer on or before the seventh day from the date of service, the Defendant(s) may reopen the default as a matter of right by making an answer within seven (7) days after the date of the default notwithstanding the provisions of O.C.G.A. 9-11-55. If the seventh (7) day is a Saturday, a Sunday, or a legal holiday, the answer may be made on the next day which is not a Saturday, a Sunday, or a legal holiday. If the answer is not so made, a writ of possession shall issue against Defendant(s) as by law provided, pursuant to Plaintiff(s)' affidavit.

Filed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Magistrate/Deputy Clerk of Court

The purpose of this form is to allow any person holding a security interest on personal property and wishing to foreclose on the security interest to make a statement under oath by affidavit, either in person or by that person's agent, attorney-in-fact or attorney at law, for a writ of possession before any judge of the magistrate or a clerk of the Magistrate Court, within the county where the debtor may reside or where the secured property is located.

The Affidavit contains a summons as prescribed in code section 44-14-232. The summons shall be served upon defendant(s) by county sheriff, deputy or marshal, or any lawful constable of the county where the debtor resides or the secured property is located.

The summons will command and require that the defendant answer either orally or in writing within seven (7) days from the date of the actual service unless the seventh day is a Saturday, a Sunday, or a legal holiday, in which case the answer may be made on the next day which is not Saturday, a Sunday, or a legal holiday.